

ORIGINAL

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

In the Matter of the License of: )  
 ) Case No. REA-2005-2  
MICHAEL R. AGUILERA, )  
License No. RT-909, ) **STIPULATION AND**  
 ) **CONSENT ORDER**  
Respondent. )  
 )  
\_\_\_\_\_  
REA\Aguilera\P4355lsa

WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Michael R. Aguilera (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of real estate appraising in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent Michael R. Aguilera is a licensee of the Idaho State Board of Real Estate Appraisers and holds License No. RT-909 to practice as a real estate appraiser trainee in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. On or about March 25, 2004, Respondent was convicted upon a plea of guilty to the offense of Possession of Marijuana in Excess of Three Ounces, a felony in violation of Idaho Code § 37-2732(e), in State v. Aguilera, Idaho Fourth Judicial District for the County of Ada Case No. H0300592. A true and correct copy of the Judgment,

Suspended Sentence, Order of Probation and Commitment in that case is attached hereto as Exhibit 1.

4. Respondent's conviction of a felony constitutes a violation of the laws governing the practice of real estate appraising, specifically Idaho Code § 54-4107(1)(b). Violations of these laws further constitute grounds for disciplinary action against Respondent's license to practice as a real estate appraiser trainee in the State of Idaho.

5. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his license as set forth in Section C below.

**B.**

I, Michael R. Aguilera, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice as a real estate appraiser trainee in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

**C.**

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. License No. RT-909 issued to Respondent Michael R. Aguilera is hereby suspended for a period of four (4) years with the entire 4-year suspension WITHHELD provided Respondent complies with all terms of this Stipulation and Consent Order.

2. Respondent shall pay costs and attorney fees in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) within thirty (30) days of the entry of the Board's Order.

3. Respondent's License No. RT-909 shall be placed on probation for a period of four (4) years which runs concurrently with Respondent's probation in Ada County Case No. H0300592. The conditions of probation are as follows:

a. Respondent shall comply with all terms of probation in Ada County Case No. H0300592.

b. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of real estate appraising in the State of Idaho.

c. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

d. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of time spent outside Idaho will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation.

e. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information within a reasonable time after a request is made for such documents or information.

f. Respondent shall make all files, records, correspondence or other documents available immediately upon the demand of any member of the Board's staff or its agents.

4. At the conclusion of the 4-year probationary period, provided Respondent has successfully completed his probation in Case No. H0300592, and, if applicable, Respondent may request from the Board reinstatement of License No. RT-909 without restriction. Any request for reinstatement must be accompanied by written proof of compliance with the terms of this Stipulation and certification from Respondent's probation officer that he has successfully completed probation in Case No. H0300592. The Board retains discretion to grant reinstatement of Respondent's real estate appraiser trainee license or to deny reinstatement and continue the period of probation.

5. If, during the term of Respondent's probation, Respondent wishes to apply for his real estate appraiser license, Respondent shall meet with the Board to address the conviction in Case No. H0300592 before making application for his real estate appraiser license.

6. All costs associated with compliance with the terms of this stipulation are the sole responsibility of Respondent.

7. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

#### **D.**

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4107. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.


7. The Board shall have the right to make full disclosure of this Stipulation

and Consent Order and the underlying facts relating hereto to any state, agency or individual requesting information subject to any applicable provisions of the Idaho Public Records Act, title 9, chapter 3, Idaho Code.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

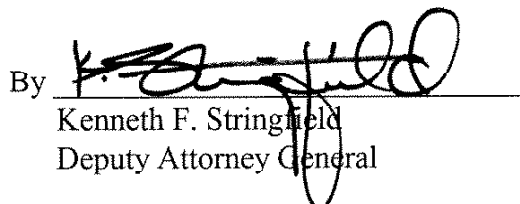
DATED this 7<sup>th</sup> day of December, 2005.

  
Michael R. Aguilera  
Respondent

I concur in this stipulation and order.

DATED this 18<sup>th</sup> day of January, 2005.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By   
Kenneth F. Stringfield  
Deputy Attorney General

## ORDER

Pursuant to Idaho Code § 54-4106, the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 14<sup>th</sup> day of February, 2005. IT IS SO ORDERED.

IDAHO STATE BOARD  
OF REAL ESTATE APPRAISERS

By

  
R. Doyle Pugmire, Chair

## CERTIFICATE OF SERVICE

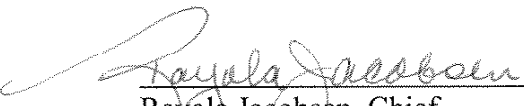
I HEREBY CERTIFY that on this 14<sup>th</sup> day of February 2005, I caused to be served a true and correct copy of the foregoing by the following method to:

Michael R. Aguilera  
12650 W. Ginger Creek Drive  
Boise, ID 83713

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Kenneth F. Stringfield  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☒ Statehouse Mail

  
Rayola Jacobsen, Chief  
Bureau of Occupational Licenses